

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

**UNITED STATES OF AMERICA**

**V.**

**TIMOTHY EARL BROWN**

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§

**CRIMINAL NO. 6:04-CR-34**

**REPORT & RECOMMENDATION OF  
UNITED STATES MAGISTRATE JUDGE**

On March 7, 2012, the Court conducted a hearing to consider the government's petition to revoke the supervised release of Defendant Timothy Earl Brown. The government was represented by Jim Middleton, Assistant United States Attorney for the Eastern District of Texas, and Defendant was represented by Ken Hawk.

Defendant originally pled guilty to the offense of Felon in Possession of a Firearm, a Class C felony. The offense carried a statutory maximum imprisonment term of 10 years. The United States Sentencing Guideline range, based on a total offense level of 23 and a criminal history category of V, was 84 to 105 months; however, District Judge William Steger sustained Defendant's objection to the Presentence Report. As a result, the Defendant's total offense level became a 21, which when combined with a criminal history category of V, resulted in a guideline imprisonment range of 70 to 87 months. On November 15, 2004, Judge Steger sentenced Defendant to 87 months imprisonment followed by 3 years supervised release subject to the standard conditions of release, plus special conditions to include financial disclosure, drug aftercare, and the cooperation in the collection of DNA as directed by the probation officer. On June 3, 2010, Timothy Earl Brown completed the term of imprisonment and began his term of supervised release.

In its petition, the government alleges that Defendant violated his conditions of supervised release by being arrested for public intoxication and open container of alcohol in a motor vehicle on July 25, 2010, a Grade C violation. If the Court finds by a preponderance of the evidence that Defendant committed a Grade C violation, a statutory sentence of no more than 2 years imprisonment may be imposed. 18 U.S.C. § 3583(e)(3). U.S.S.G. § 7B1.3(a)(2) indicates that upon a finding that Defendant committed a Grade C violation, the Court may (A) revoke probation or supervised release; or (B) extend the term of probation or supervised release and/or modify conditions of supervision. U.S.S.G. § 7B1.4(a) provides that in the case of revocation of supervised release based on a Grade C violation and a criminal history of category V, the guideline imprisonment range is 7 to 13 months.

At the hearing, the parties indicated they had come to an agreement to resolve the petition whereby Defendant would plead true to the above-referenced violation of his conditions of supervision. The parties agreed on a sentence of 12 months and 1 day to be served concurrently with the state sentence Defendant is serving in 2000-C-012 Panola Co. and 1999-C-089 Panola Co. with no supervised release to follow.

Pursuant to the Sentencing Reform Act of 1984, and the agreement of the parties, the Court **RECOMMENDS** that Timothy Earl Brown be committed to the custody of the Texas Department of Criminal Justice for a term of imprisonment of 12 months and 1 day as described above with no supervised release to follow. The Court further recommends that, if any time remains in the 12 months and 1 day sentence recommended by this Court after the completion of the concurrent sentences, Defendant serve the remainder of his sentence at FCI Seagoville, TX.

Defendant has waived his right to object to the findings of the Magistrate Judge in this matter

so the Court will present this Report and Recommendation to District Judge Leonard Davis for adoption immediately upon issuance.

**So ORDERED and SIGNED this 9th day of March, 2012.**

  
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JOHN D. LOVE  
UNITED STATES MAGISTRATE JUDGE